

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

RENO NEWSPAPERS, INC., a Nevada,)	3:09-CV-683-ECR-RAM
corporation,)	
)	
Plaintiff,)	
)	<u>Order</u>
vs.)	
)	
UNITED STATES PAROLE COMMISSION)	
and UNITED STATES DEPARTMENT OF)	
JUSTICE,)	
)	
Defendants.)	

This is an action filed under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, challenging Defendants' decision to redact and withhold certain documents in response to Plaintiff's FOIA request.

I. Factual and Procedural Background

On September 4, 2009, Plaintiff Reno Newspapers Inc., a Nevada Corporation doing business as RGJ Legal Affairs ("RGJ") reported that RGJ employee Martha Bellisle submitted a written FOIA request to the United States Parole Commission (the "Commission"). (Compl. ¶ 11 (#1).) On September 16, 2009, the Commission's FOIA specialist responded to RGJ, enclosing 19 pages of documents with certain portions redacted and stating that the Commission was withholding 92 pages in full based on 5 U.S.C. § 552(b)(6) and 552(b)(7). (*Id.* ¶¶ 13, 14.) On October 5, 2009, counsel for RGJ responded in writing, specifically requesting a written index with respect to each of the withheld documents so that "RGJ would be afforded a meaningful

1 opportunity to evaluate and potentially contest the Commission's
2 action in withholding the requested documents." (Id. ¶ 15.) Also
3 on October 5, 2009, RGJ appealed the decision of the Commission's
4 FOIA specialist to the Chairman of the Commission. (Id. ¶ 16.) The
5 administrative appeal reiterated RGJ's request for a written index
6 with respect to each of the withheld documents. (Id.) By a letter
7 dated October 19, 2009, the Chairman of the Commission denied the
8 administrative appeal and refused to provide the RGJ with a written
9 index with respect to the withheld documents. (Id. ¶ 17.)

10 On November 23, 2009, Plaintiff filed the complaint (#1) in the
11 present lawsuit. On January 29, 2010, the FOIA specialist conducted
12 further review of the Commission's records and sent 32 redacted
13 pages to Plaintiff. (D.'s Opp. and MSJ at 4 (#16).) On April 7,
14 2010, Defendants provided an additional 44 pages of records, 38
15 pages of which contain redactions. (P.'s MSJ at 10 (#13).) On May
16 25, 2010, Plaintiff appealed the April 7, 2010 disclosure to the
17 Chairman of the Commission. (Id. at 10.) On May 26, 2010,
18 Defendants provided the RGJ with an index of withheld and redacted
19 documents. (P.'s MSJ at 10 (#13).) This index indicated that over
20 500 documents were withheld in full. (Id.)

21 On July 21, 2010, Plaintiff filed a motion for summary judgment
22 (#13) asserting that documents requested by Plaintiff from
23 Defendants are not protected under FOIA. On September 8, 2010,
24 Defendants filed an opposition to Plaintiff's motion for summary
25 judgment and cross-motion for summary judgment (#16). On October 8,
26 2010, Plaintiff filed a reply (#20) in support of Plaintiff's motion

1 for summary judgment and in opposition to Defendants' cross-motion
2 for summary judgment.

3 **II. Summary Judgment Standard in FOIA Cases**

4 Summary judgment allows courts to avoid unnecessary trials
5 where no material factual dispute exists. N.W. Motorcycle Ass'n v.
6 U.S. Dep't of Agric., 18 F.3d 1468, 1471 (9th Cir. 1994). The court
7 must view the evidence and the inferences arising therefrom in the
8 light most favorable to the nonmoving party, Bagdadi v. Nazar, 84
9 F.3d 1194, 1197 (9th Cir. 1996), and should award summary judgment
10 where no genuine issues of material fact remain in dispute and the
11 moving party is entitled to judgment as a matter of law. FED. R.
12 CIV. P. 56(c). Judgment as a matter of law is appropriate where
13 there is no legally sufficient evidentiary basis for a reasonable
14 jury to find for the nonmoving party. FED. R. CIV. P. 50(a). Where
15 reasonable minds could differ on the material facts at issue,
16 however, summary judgment should not be granted. Warren v. City of
17 Carlsbad, 58 F.3d 439, 441 (9th Cir. 1995), cert. denied, 116 S.Ct.
18 1261 (1996).

19 "Summary judgment is the procedural vehicle by which nearly
20 all FOIA cases are resolved." Los Angeles Times Commc'ns, LLC v.
21 Dep't of the Army, 442 F. Supp. 2d 880, 893 (C.D. Cal. 2006). The
22 court conducts a de novo review of an agency's response to a FOIA
23 request. 5 U.S.C. § 552(a)(4)(B); U.S. Dep't of Justice v. Reporters
24 Comm. for Freedom of Press, 489 U.S. 749, 755 (1989). The usual
25 summary judgment standard detailed above does not extend to FOIA
26 cases because the facts are rarely in dispute and courts generally
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1 need not resolve whether there is a genuine issue of material fact.
2 Minier v. Cent. Intel. Agency, 88 F.3d 796, 800 (9th Cir. 1996).

3 Instead, in deciding whether summary judgment is appropriate in
4 a FOIA case, the court must first evaluate "whether the agency has
5 met its burden of proving that it fully discharged its obligations
6 under the FOIA." Id. The agency must demonstrate that it has
7 conducted a search reasonably calculated to uncover all relevant
8 documents. Zemansky v. U.S. Env'tl. Prot. Agency, 767 F.2d 569, 571
9 (9th Cir. 1985). Second, if the agency satisfies its initial
10 burden, the court must determine "whether the agency has proven that
11 the information that it did not disclose falls within one of the
12 nine FOIA exemptions." Los Angeles Times Commc'ns, 442 F. Supp. 2d
13 at 894.

14 **III. Discussion**

15 A. Exhaustion of Administrative Remedies

16 "[F]ull and timely exhaustion of administrative remedies is a
17 prerequisite to judicial review under FOIA." Judicial Watch, Inc.
18 v. U.S. Naval Observatory, 160 F. Supp. 2d 111, 112 (D.D.C. 2001).
19 Prior to seeking judicial review, a records requester must exhaust
20 his or her administrative remedies, including filing a proper FOIA
21 request. See Hedley v. United States, 594 F.2d 1043, 1044 (5th Cir.
22 1979). If the records requester fails to exhaust administrative
23 remedies, the lawsuit may be dismissed for lack of subject matter
24 jurisdiction. Heyman v. Merit Systems Protection Board, 799 F.2d
25 1421, 1423 (9th Cir. 1986), cert. denied, 481 U.S. 1019 (1987).
26 FOIA provides for two different types of exhaustion: actual and
27 constructive. Actual exhaustion occurs when the agency denies all

1 or part of a party's document request. Constructive exhaustion
2 occurs, and a requester is permitted to proceed directly to court,
3 when certain statutory requirements are not met by the agency.
4 Taylor v. Appleton, 30 F.3d 1365, 1368 (11th Cir. 1994). This
5 occurs when, for example, the applicable response period has expired
6 and the agency has failed to respond to the request or the appeal.
7 See 5 U.S.C. § 552(a)(6)(C); Oglesby v. United States Dep't of the
8 Army, 920 F.2d 57, 61 (D.C. Cir. 1990).

9 The subject of exhaustion of administrative remedies under FOIA
10 is covered in 5 U.S.C. § 552(a)(6)(C), which provides, in part, that
11 "[a]ny person making a request to any agency for records under . . .
12 this subsection shall be deemed to have exhausted his administrative
13 remedies with respect to such request if the agency fails to comply
14 with the applicable time limit provisions of this paragraph." The
15 applicable time limits are set forth in 5 U.S.C. § 552(a)(6)(A):

16 "Each agency, upon any request for records made under
17 paragraph (1), (2), or (3) of this subsection, shall - (i)
18 determine within 20 days (excepting Saturdays, Sundays, and
19 legal public holidays) after the receipt of any such
20 request whether to comply with such request and shall
immediately notify the person making such request of such
determination and the reasons therefor, and of the right
of such person to appeal to the head of the agency any
adverse determination"

21 In this case, Defendants contend that Plaintiff has failed to
22 exhaust its administrative remedies with respect to the January 29,
23 2010 disclosure. Defendants assert that we therefore do not have
24 jurisdiction over that disclosure. However, it is not clear whether
25 Plaintiff is indeed challenging the January 29, 2010 disclosure:
26 "RJG had no reason to complain with respect to a disclosure of
27 documents. It is only the withholding of documents that was
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1 improper." (P.'s Reply at 10 (#20).) Regardless, Plaintiff filed
2 only one FOIA request. Defendants were under an obligation to
3 respond to that request, in full, within 20 days. 5 U.S.C. §
4 552(a)(6)(A). Only Defendants' first disclosure fell within the
5 time constraints delineated in section 552. Plaintiff timely
6 appealed that disclosure, and thus actually exhausted its
7 administrative remedies with respect to the disclosure. The
8 remainder of Defendants' disclosures were made outside section 552's
9 time limits, and thus Plaintiff has constructively exhausted its
10 administrative remedies as to those disclosures. We decline to
11 penalize Plaintiff because Defendants chose to respond to
12 Plaintiff's FOIA request in a piecemeal fashion. We therefore
13 reject Defendants' contention that we do not have jurisdiction over
14 the January 29, 2010 disclosure.¹

15 B. Vaughn Index Requirement

16 Government agencies seeking to withhold documents requested
17 under FOIA are required to supply the opposing party and the court
18 with a "Vaughn index," identifying "each document withheld, the
19 statutory exemption claimed, and a particularized explanation of how
20 disclosure of the particular document would damage the interest
21 protected by the claimed exemption." Wiener v. F.B.I., 943 F.2d
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23 ¹ In their reply (#7), Defendants call to our attention that
24 Defendants' latter two disclosures were made after Plaintiff filed its
25 complaint. They contend that because Plaintiff has not amended its
26 complaint to explicitly include these disclosures we should not
27 consider them. Issues raised for the first time in a reply brief are
28 not ordinarily considered by the Court. Kerzner Intern. Ltd. v.
Monarch Casino & Resort, Inc., 675 F.Supp.2d 1029, 1049 (D. Nev.
2009). Plaintiff has not had the opportunity to address this issue
and therefore, we will not consider it at this time.

1 972, 977 (9th Cir. 1991). In meeting its burden, "the government
2 may not rely upon 'conclusory and generalized allegations of
3 exemptions.'" Church of Scientology of Cal. v. U.S. Dep't of the
4 Army, 611 F.2d 738, 742 (9th Cir. 1980) (quoting Vaughn v. Rosen,
5 484 F.2d 820, 826 (D.C. Cir. 1973)).

6 The Vaughn index is intended to remedy the quandary faced by a
7 party requesting documents under FOIA. In non-FOIA cases, "rules of
8 discovery give each party access to the evidence upon which the
9 court will rely in resolving the dispute between them." Wiener, 943
10 F.2d at 977. In a FOIA case, however, the issue is whether one
11 party will disclose documents to the other party. Id. Thus, only
12 the party opposing disclosure has "access to all the facts." Id.
13 "This lack of knowledge by the party seeking disclosure seriously
14 distorts the traditional adversary nature of our legal system." Id.
15 (quoting Vaughn v. Rosen, 484 F.2d 820, 824 (D.C. Cir. 1973). The
16 party requesting disclosure is forced to rely upon his adversary's
17 representations as to the material withheld, and the court is denied
18 "the benefit of informed advocacy to draw its attention to the
19 weaknesses in the withholding agency's arguments." Id. The purpose
20 of the index is thus to "afford the FOIA requester a meaningful
21 opportunity to contest, and the district court an adequate
22 foundation to review, the soundness of the withholding." Id.

23 A Vaughn index should satisfy the following requirements:
24 "(1) The index should be contained in one document, complete in
25 itself; (2) The index must adequately describe each withheld
26 document or deletion from a released document; (3) The index must
27 state the exemption claimed for each deletion or withheld document,

1 and explain why the exemption is relevant." Voinche v. F.B.I., 412
2 F. Supp. 2d 60, 65 (D. D. C. 2006). "Specificity is the defining
3 requirement of the Vaughn index." Id. at 979. The agency must
4 disclose "as much information as possible without thwarting the
5 [claimed] exemption's purpose." King v. U.S. Dept. of Justice, 830
6 F.2d 210, 224 (C.A.D.C. 1987). That disclosure must demonstrate a
7 "logical connection between the information and the claimed
8 exemption" Salisbury v. U.S., 690 F.2d 966, 970 (D.C. Cir.
9 1982).

10 The FOIA creates a presumption in favor of disclosure of
11 government documents. Dept. of the Air Force v. Rose, 425 U.S. 352,
12 360-61 (1976). An agency may withhold a document "only if the
13 information contained in the document falls within one of the nine
14 statutory exemptions to the disclosure requirements set forth in §
15 552(b)." Bowen v. U.S. Food and Drug Admin., 925 F.2d 1225, 1226
16 (9th Cir. 1991). These exemptions are to be narrowly construed.
17 Cal-Almond, Inc. v. US Dept. of Agriculture, 960 F.2d 105, 107 (9th
18 Cir. 1992); United States Dept. of Justice v. Julian, 486 U.S. 1, 7
19 (1988).

20 Furthermore, even if part of a document is FOIA exempt, the
21 agency still must disclose any portions which are not exempt - i.e.,
22 all "segregable" information - and must address in its Vaughn index
23 why the remaining information is not segregable. The district court
24 must make specific factual findings on the issue of segregability to
25 establish that the required de novo review of the agency's
26 withholding decision has in fact taken place. Wiener, 943 F.2d at
27 988. The Court may not "simply approve the withholding of an
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1 entire document without entering a finding on segregability . . .

2 .'" Id., citing Church of Scientology, 611 F.2d at 744.

3 C. Adequacy of Defendants' Vaughn Index

4 As an initial matter, there appears to be some confusion as to
5 which document or documents constitute the Vaughn index at issue.
6 In challenging the sufficiency of the Vaughn index provided by
7 Defendants, Plaintiff treats the 70 entry document entitled "index"
8 that Helen Krapels, Assistant General Counsel to the Commission,
9 provided to Plaintiff's counsel on May 26, 2010 (the "May 26 Index")
10 as the Vaughn index. (P.'s MSJ at 18 (#13) ("The only explanation
11 offered by Defendants for their withholding are contained in the
12 'index' that was finally provided on May 26, 2010.").² In their
13 opposition and counter-motion, Defendants do not take issue with
14 Plaintiff's characterization of the May 26 Index as the Vaughn index
15 at issue in this case. Nevertheless, Defendants contend that
16 "Plaintiff's motion also fails to mention or discuss four of the
17 exemptions referenced in the Vaughn index." (Ds.' Opp. And Counter-
18 Mot. at 12 (#16).) Two of those exemptions, however, are not
19 mentioned in the May 26 Index.³ Rather, those exemptions are

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21 ² It appears that Plaintiff had good reason to consider the May
22 26 Index to be the Vaughn index at issue in this case. The May 26
23 Index was given to Plaintiff after all of Defendants' disclosures were
24 completed. It purports to be a complete index addressing all three
25 disclosures: "Attached to this letter is an index of the documents
26 that were released in part or withheld in full from the files of
Philip Garrido." (Ltr. accompanying May 26 Index (#13-6).) While
Defendants also addressed the documents that were released in part or
withheld in full in the letter accompanying each disclosure, the May
26 Index appears to be a more detailed and comprehensive guide to such
documents.

27 ³ Exemptions under 5 U.S.C. § 552(b)(3) and 5 U.S.C. §
28 552(b)(7)(D).

1 addressed in the declaration of Anissa H. Banks, Freedom of
2 Information Act Specialist for the Commission and in Exhibit 8 to
3 her declaration. (D.s' Reply at 5 (#23)); (Banks Dec. ¶ 15 (#16-1));
4 (April 7, 2010 Disclosure ¶¶ 9, 24 (#16-1)). The Banks declaration
5 and May 10, 2010 disclosure were exhibits to Defendants' opposition
6 and counter-motion, but Defendants did not, at least in that
7 document, argue in favor of considering the Banks declaration and
8 May 10, 2010 disclosure part of the Vaughn index. Only in their
9 reply do Defendants suggest that the Vaughn index includes the
10 exemptions raised in the May 10, 2010 disclosure. However, even if
11 Defendants had argued for considering those documents to be part of
12 the Vaughn index, as stated above, a valid Vaughn index must be
13 contained in one document, complete in itself. Voinche v. F.B.I.,
14 412 F. Supp. 2d 60, 65 (D. D. C. 2006). As such, we will consider
15 the May 26 Index as the Vaughn index at issue in this case.

16 The May 26 Index is a 70 entry index divided into two
17 categories: material from the Commission and the material from the
18 United States Probation Office. Each category is then subdivided
19 into two subcategories: documents released in part and documents
20 withheld in full. With respect to most of the documents, Defendants
21 contend that the information withheld is exempt from disclosure
22 under 5 U.S.C. § 552(b)(6), which allows the government to withhold
23 all information about individuals in "personnel and medical files
24 and similar files" if the disclosure of the information "would
25 constitute a clearly unwarranted invasion of personal privacy," and
26 5 U.S.C. § 552(b)(7)(C), which shields from public disclosure
27 information about individuals where: (1) the "information [was]

1 compiled for law enforcement purposes," and (2) the disclosure of
2 the information "could reasonably be expected to constitute an
3 unwarranted invasion of personal privacy." Defendants also assert 5
4 U.S.C. 552(b)(5), which exempts "inter-agency or intra-agency
5 memorandums or letters which would not be available by law to a
6 party other than an agency in litigation with the agency," as a
7 basis for withholding several documents in full. Finally,
8 Defendants assert 5 U.S.C. 552(b)(2), (b)(7)(e) as bases for
9 redacting signatures and 26 U.S.C. 6103 as a basis for withholding
10 tax returns.

11 Plaintiff does not take issue with the signature redactions and
12 does not address – and therefore appears to not take issue with –
13 the withholding of the income tax returns.⁴ Plaintiff contends that
14 each of the other claimed exemptions in the May 26 Index "consists
15 of a boilerplate recitation of the statutory language without any
16 effort to particularize the claim to the contents of a specific
17 document." (P.'s MSJ at 13 (#13).) Defendants contend that the
18 index is sufficient.

19 In the May 26 Index, Defendants list the asserted exemptions
20 and then describe, with varying degrees of particularity, the
21 withheld and redacted documents at issue. Defendants do not in
22 every case, however, explain why the exemption is relevant.
23 Voinche, 412 F. Supp. 2d at 65. Thus, the May 26 Index as a whole
24 fails to demonstrate a "logical connection between the information
25 and the claimed exemption" Salisbury v. U.S., 690 F.2d 966,

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27 ⁴ As such, Defendants need not address these exemptions in any
subsequent Vaughn index.

1 1970 (D.C. Cir. 1982). This shortcoming is particularly relevant
2 because Defendants assert several exemptions with respect to each
3 document. We are unable to evaluate the propriety of each exemption
4 without index entries that clearly demonstrate the connection
5 between each exemption and the information withheld. More
6 importantly, without an appropriate Vaughn index, Plaintiff is
7 denied a meaningful opportunity to contest the soundness of
8 Defendants' withholdings.

9 For example, Defendants claim that a great deal of information
10 is exempt from disclosure under 5 U.S.C. § (b) (7) (C). Nevertheless,
11 they do not include in the index facts that would enable us to make
12 a finding with respect to whether and to what extent that exemption
13 applies. As noted above, 5 U.S.C. § (b) (7) (C) shields from public
14 disclosure information about individuals where: (1) the "information
15 [was] compiled for law enforcement purposes," and (2) the disclosure
16 of the information "could reasonably be expected to constitute an
17 unwarranted invasion of personal privacy." The threshold issue in
18 any exemption (7) claim is "whether the agency involved may properly
19 be classified as a 'law enforcement' agency." Church of Scientology
20 of California v. U.S. Dept. of Army, 611 F.2d 738, 748 (9th Cir.
21 1979). "The term 'law enforcement purpose' has been construed to
22 require an examination of the agency itself to determine whether the
23 agency may exercise a law enforcement function." Id. An agency
24 with "a clear law enforcement mandate, such as the FBI, need only
25 establish a 'rational nexus' between enforcement of a federal law
26 and the document for which an exemption is claimed." Id.; see also
27 Rosenfeld v. U.S. Dept. of Justice,

1 57 F.3d 803, 808 (9th Cir. 1995). However, "an agency which has a
2 'mixed' function, encompassing both administrative and law
3 enforcement functions, must demonstrate that it had a purpose
4 falling within its sphere of enforcement authority in compiling the
5 particular document." Id. Defendants assert elsewhere that the
6 Commission is "a law enforcement agency whose principal function is
7 the enforcement of criminal laws." (Banks Dec. ¶ 2 (#16-1))
8 However, apart from this blanket assertion, Defendants fail to
9 provide sufficient information to enable us to determine whether the
10 Commission has a clear law enforcement mandate or has a mixed
11 function. Moreover, Defendants do not address whether the document
12 at issue has a rational nexus with enforcement of federal law or
13 whether the document has a purpose falling within the Commission's
14 enforcement authority. See Rosenfeld v. U.S. Dept. of Justice,
15 57 F.3d 803, 808 (9th Cir. 1995).

16 We additionally note that in almost every entry in the May 26
17 Index, Defendants submit, as a reason for non-disclosure, that
18 "Plaintiff has not identified a reason for which disclosure of the
19 information would serve the purpose of the FOIA." (May 26 Index
20 (#13-6).) While it is true that parties seeking information under
21 FOIA sometimes have the burden of demonstrating that the public
22 interest sought to be advanced is a significant one, no such showing
23 is required at the Vaughn index stage. Indeed, as a general rule,
24 "when documents are within FOIA's disclosure provisions, citizens
25 should not be required to explain why they seek the information."
26 National Archives and Records Admin. v. Favish,

1 541 U.S. 157, 172 (2004). We agree with Defendants that "where the
2 privacy concerns addressed by Exemption 7(C) are present, the
3 exemption requires the person requesting the information to
4 establish a sufficient reason for the disclosure." Id.
5 Nevertheless, the Vaughn index is where Exemption 7(C) is properly
6 asserted. As such, it is premature to list the absence of a
7 sufficient reason for the disclosure as a reason for the
8 withholding. Under both exemptions 6 and 7, "the only relevant
9 public interest in the FOIA balancing analysis is the extent to
10 which disclosure of the information sought would shed light on an
11 agency's performance of its statutory duties or otherwise let
12 citizens know what their government is up to." Bibles v. Oregon
13 Nat'l Desert Assoc., 519 U.S. 335 (1997) (quotations omitted).

14 D. Admissibility of Special Report

15 Attached to Plaintiff's motion (#13) for summary judgment is a
16 Special Report by the Office of the Inspector General of the State
17 of California (#13-2) (the "Special Report") concerning the
18 California Department of Corrections and Rehabilitation's
19 supervision of parolee Phillip Garrido. In their opposition to
20 Plaintiff's motion for summary judgment and cross-motion for summary
21 judgment (#16), Defendants challenge the admissibility of the
22 Special Report on various evidentiary grounds. As the Court will
23 not presently rule on Plaintiff's motion for summary judgment (#13)
24 or Defendant's opposition and cross-motion for summary judgment
25 (#16), it is unnecessary for us to rule on the admissibility of the
26 Special Report at this time.

1 **VI. Conclusion**

2 In FOIA cases, the burden is on the government to show (i) that
3 withheld documents and redacted portions of documents are exempt
4 from disclosure; and (ii) that portions of withheld documents that
5 are not FOIA-exempt are not segregable from the remainder of the
6 document. These showings are made by the production of a Vaughn
7 index, which must (i) detail each withheld document and each
8 deletion from a released document; (ii) state the exemption claimed
9 for each deletion or withheld document; (iii) explain why such
10 exemption is relevant; and (iv) state why a document held in full
11 was not segregable.

12 We find that Defendants' Vaughn index is insufficiently
13 detailed to pass muster. Defendants' revised Vaughn index should:
14 (i) state all claimed exemptions in a single document; (ii) state
15 with greater specificity why an exemption is relevant to a
16 particular document; (iii) clearly state whether any information
17 contained in a withheld document is segregable; and (iv) clarify
18 whether the Commission has a law enforcement purpose or mixed law
19 enforcement and administrative functions with respect to any
20 exemptions claimed under 5 U.S.C. § (b) (7) (C).

21 We note that this case involves a six month reportable motion
22 (#13). It is therefore important that we rule on this motion by
23 March 31, 2011.

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26 **IT IS, THEREFORE, HEREBY ORDERED** that Defendants shall have
27 fourteen days to submit an amended Vaughn index to the Court.

1 **IT IS HEREBY FURTHER ORDERED** that Plaintiff shall have fourteen
2 days from the date of submission of Defendants' revised Vaughn index
3 to submit a response.

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7 DATED: January 21, 2011.

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UNITED STATES DISTRICT JUDGE

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